

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JOSEPH LOVATO,

Plaintiff,

vs.

No. 1:20-CV-00187-KRS

KILOLO KIJAKAZI, Acting Commissioner
of Social Security,¹

Defendant.

ORDER

THIS MATTER is before the Court upon Plaintiff's Unopposed Motion for EAJA Fees (Doc. 32). Having considered the relevant filings, the Court finds that the motion is due to be **GRANTED**. It is therefore **ORDERED** that attorney fees are awarded under the Equal Access to Justice Act, 28 U.S.C. § 2412(d), payable to Plaintiff and delivered to Plaintiff's attorney in the amount of **\$4,900.00**. *See* 28 U.S.C. § 2412(d); *see also Astrue v. Ratliff*, 560 U.S. 586, 598 (2010) (EAJA fees are paid to the prevailing party, not the attorney). **IT IS FURTHER ORDERED THAT**, if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff. *See Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).



KEVIN R. SWEAZE
UNITED STATES MAGISTRATE JUDGE

¹ The Acting Commissioner is substituted as the proper Defendant pursuant to FED. R. CIV. P. 25(d).